

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

KYLE PAUL CRESPIN,

Plaintiff,

v.

Civ. No. 22-0811 KG-KK

CITY OF ALBUQUERQUE, *et al*,

Defendants.

ORDER OF DISMISSAL

This matter is before the Court following Plaintiff's failure to prosecute his civil rights action. Plaintiff is incarcerated and proceeding *pro se*. By an Order entered December 16, 2022, the Court granted leave to proceed *in forma pauperis*. (Doc. 5). The Court also directed Plaintiff to make an initial partial payment of \$38.40 within thirty days of entry of the Order. (Doc. 5). Such payment is required by statute. *See* 28 U.S.C. § 1915(b)(1). The amount represents 20% of the greater of Plaintiff's average monthly deposits or average balance for the six-month period preceding this action. The Order warned that the failure to timely comply will result in the dismissal of this case without further notice.

The payment deadline expired no later than January 17, 2023. Plaintiff failed to comply, show cause for this failure, or otherwise respond. Hence, the Court will dismiss this action without prejudice pursuant to Fed. R. Civ. P. 41(b). That rule permits dismissal based on the "failure to prosecute [and] comply with the ... court's orders." *Olsen v. Mapes*, 333 F.3d 1199, 1204 n. 3 (10th Cir. 2003).

IT IS ORDERED:

1. Plaintiff's Amended Prisoner Civil Rights Complaint (Doc. 3) is dismissed without

prejudice.

2. The Court will enter a separate judgment closing the civil case.


UNITED STATES DISTRICT JUDGE